

No. G-2051069

Date JUL 23 1976

Fee \$ 50.00

ICC Washington, D. C.

Registration No. 8420

JUL 23 1976 - 8 50 PM
INTERSTATE COMMERCE COMMISSION

JUL 17 1976
RECEIVED
CERTIFICATION UNIT
JUL 23 3 17 PM '76

Interstate Commerce Commission
Washington, D.C.

Gentlemen:

Enclosed for recordation under the provisions of Section 20(c) of the Interstate Commerce Act, as amended, are the original and two counterparts of a Conditional Sale Agreement and Assignment dated as of May 1, 1976.

A general description of the railroad rolling stock covered by the enclosed document is set forth in Schedule 1 attached to this letter and made a part hereof.

The names and addresses of the parties are:

Vendor: North American Car (Canada) Limited
222 South Riverside Plaza
Chicago, Illinois 60606

Vendee: Grand Trunk Western Railroad Company
131 West Lafayette Boulevard
Detroit, Michigan 48226

Investor: The Northern Trust Company
50 South LaSalle Street
Chicago, Illinois 60690

The undersigned is the Vendee mentioned in the enclosed document and has knowledge of the matters set forth therein.

Please return the original Conditional Sale Agreement to Robert C. Nash, Esq., Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603.

Also enclosed is a check in the amount of \$50.00 covering the required recording fee.

Very truly yours,

GRAND TRUNK WESTERN RAILROAD COMPANY

By


Its Vice President.

Enclosures

Quintanilla C. J. Kowden

SCHEDULE 1

To Conditional Sale Agreement and Assignment

DESCRIPTION OF EQUIPMENT

95 used 100-ton covered hopper cars bearing the following Canadian National Railway Company road numbers prior to renumbering, and the following Grand Trunk Western Railroad Company road numbers after renumbering, pursuant to Section 5.1 of the Conditional Sale Agreement and Assignment:

Old Numbers

New Numbers

Canadian National Railway
Company Road Nos.

Grand Trunk Western
Railroad Company Road Nos.

CN 373000
CN 373001
CN 373002
CN 373003
CN 373004
CN 373005
CN 373006
CN 373007
CN 373008
CN 373010
CN 373011
CN 373012
CN 373013
CN 373014
CN 373015
CN 373016
CN 373017
CN 373018
CN 373019
CN 373020
CN 373021
CN 373022
CN 373023
CN 373024
CN 373025
CN 373026
CN 373027
CN 373028
CN 373029
CN 373030

GTW 315230
GTW 315231
GTW 315232
GTW 315233
GTW 315234
GTW 315235
GTW 315236
GTW 315237
GTW 315238
GTW 315239
GTW 315240
GTW 315241
GTW 315242
GTW 315243
GTW 315244
GTW 315245
GTW 315246
GTW 315247
GTW 315248
GTW 315249
GTW 315250
GTW 315251
GTW 315252
GTW 315253
GTW 315254
GTW 315255
GTW 315256
GTW 315257
GTW 315258
GTW 315259

Old Numbers

Canadian National Railway
Company Road Nos.

CN 373031
CN 373033
CN 373034
CN 373035
CN 373036
CN 373037
CN 373038
CN 373039
CN 373042
CN 373043
CN 373044
CN 373045
CN 373046
CN 373047
CN 373048
CN 373049
CN 373050
CN 373051
CN 373053
CN 373054
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CN 373064
CN 373065
CN 373066
CN 373067
CN 373068
CN 373069
CN 373070
CN 373071
CN 373072
CN 373073
CN 373074
CN 373075
CN 373076
CN 373077
CN 373078
CN 373079
CN 373080

New Numbers

Grand Trunk Western
Railroad Company Road Nos.

GTW 315260
GTW 315261
GTW 315262
GTW 315263
GTW 315264
GTW 315265
GTW 315266
GTW 315267
GTW 315268
GTW 315269
GTW 315270
GTW 315271
GTW 315272
GTW 315273
GTW 315274
GTW 315275
GTW 315276
GTW 315277
GTW 315278
GTW 315279
GTW 315280
GTW 315281
GTW 315282
GTW 315283
GTW 315284
GTW 315285
GTW 315286
GTW 315287
GTW 315288
GTW 315289
GTW 315290
GTW 315291
GTW 315292
GTW 315293
GTW 315294
GTW 315295
GTW 315296
GTW 315297
GTW 315298
GTW 315299
GTW 315300
GTW 315301
GTW 315302
GTW 315303
GTW 315304
GTW 315305

Old Numbers

New Numbers

Canadian National Railway
Company Road Nos.

Grand Trunk Western
Railroad Company Road Nos.

CN 373081
CN 373082
CN 373083
CN 373084
CN 373085
CN 373086
CN 373087
CN 373088
CN 373089
CN 373090
CN 373091
CN 373092
CN 373093
CN 373094
CN 373095
CN 373096
CN 373097
CN 373098
CN 373099

GTW 315306
GTW 315307
GTW 315308
GTW 315309
GTW 315310
GTW 315311
GTW 315312
GTW 315313
GTW 315314
GTW 315315
GTW 315316
GTW 315317
GTW 315318
GTW 315319
GTW 315320
GTW 315321
GTW 315322
GTW 315323
GTW 315324

PURCHASE PRICE

Vendor Sale Price - U. S.
\$11,941.00 per Item (U. S.
\$1,134,395.00 for 95 Items)

Canadian Duty - U. S.
\$2,183.04 per Item (U. S.
\$207,388.80 for 95 Items)

Total - U. S. \$14,124.04
per Item (U. S. \$1,341,783.80
for 95 Items)

DELIVER TO

Grand Trunk Western Railroad
Company

PLACE OF DELIVERY

Sarnia, Ontario, Canada

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

7/23/76

•
Robert C. Nash, Esq.
Chapman and Cutler
111 West Monroe Street
Chicago, Illinois 60603

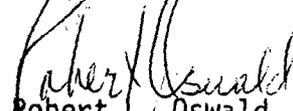
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Dear Sir:

The enclosed document was recorded pursuant to the provisions
of Section 20c of the Interstate Commerce Act, 49 U.S.C. 20c, on
at **3:20pm**, and assigned recordation number

7/23/76

8420

Sincerely yours,


Robert L. Oswald
Secretary

Enclosure

SE-39
(2/75)

JUL 06 1976

RECORDATION NO. 8420 Filed & Recorded

JUL 22 1976 3 00 PM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT
AND ASSIGNMENT

Dated as of May 1, 1976

among

NORTH AMERICAN CAR (CANADA) LIMITED

as Vendor

GRAND TRUNK WESTERN RAILROAD COMPANY

as Vendee

and

THE NORTHERN TRUST COMPANY

as Investor

Re:

U. S. \$1,341,783.80 Maximum Principal Amount
Conditional Sale Indebtedness due 1976-1981

of

Grand Trunk Western Railroad Company

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Attachments to Conditional Sale Agreement

Schedule A - Description of Equipment

CONDITIONAL SALE AGREEMENT
AND ASSIGNMENT

CONDITIONAL SALE AGREEMENT AND ASSIGNMENT dated as of May 1, 1976 among NORTH AMERICAN CAR (CANADA) LIMITED, an Ontario corporation (the "Vendor"), GRAND TRUNK WESTERN RAILROAD COMPANY, a Michigan corporation (the "Railroad") and THE NORTHERN TRUST COMPANY, an Illinois banking corporation (the "Investor").

WHEREAS, the Vendor is willing to sell and deliver to the Railroad, and the Railroad is willing to purchase, the railroad equipment described in Schedule A attached hereto (collectively the "Equipment" or "Items" and individually "Item of Equipment" or "Item"); and

WHEREAS, the Vendor and the Railroad have agreed that this Conditional Sale Agreement and Assignment shall exclusively and completely state the rights of the Vendor and the Railroad with respect to the Equipment and shall supersede all other agreements, oral or written, with respect to the Equipment;

WHEREAS, the Investor, the Vendor and the Railroad have entered into a Finance Agreement dated as of May 1, 1976 (the "Finance Agreement") providing for the acquisition from the Vendor by the Investor of the right, title and interest of the Vendor under this Conditional Sale Agreement and Assignment, subject to the conditions set forth in the Finance Agreement;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

SECTION 1. SALE.

The Vendor will sell to the Railroad, and the Railroad will purchase from the Vendor and pay for as hereinafter provided, the Equipment.

SECTION 2. RAILROAD BANKRUPTCY; RISK OF LOSS; DELIVERY AND POSSESSION.

2.1. The Vendor shall have no obligation to sell any Item of Equipment hereunder if prior to the Closing Date (as hereinafter defined) there has been a filing by or against the Railroad of a petition for reorganization under Section 77 of the Bankruptcy Act.

2.2. The Vendor shall bear the risk of loss of each Item of Equipment or damage thereto until the Closing Date (as hereinafter defined). From and after the Closing Date the Railroad shall bear the risk of loss of or damage to such Items.

2.3. The Equipment is in the possession of Canadian National Railway Company, a corporation organized and existing under and by virtue of the laws of the Dominion of Canada ("Canadian National") pursuant to a Car Leasing Agreement dated as of March 10, 1966 between the Vendor and Canadian National. The Railroad understands and agrees that the Vendor has no duty or obligation whatsoever to the Railroad with respect to transfer of possession of the Equipment from Canadian National to the Railroad but that on the contrary the Railroad hereby assumes any and all risks and responsibilities with respect to the delivery or non-delivery of the Equipment to the Railroad and that the Railroad is bound by its obligations under this Conditional Sale Agreement and Assignment, including without limitation the payment in full of the Conditional Sale Indebtedness hereinafter referred to, whether or not the Equipment or any portion thereof is transferred from the possession of Canadian National to the Railroad.

SECTION 3. CONDITIONAL SALE TO RAILROAD.

3.1. The Vendor's sale price (the "Vendor's Sale Price") per Item of Equipment shall be the sum of the following:

(a) the difference between \$11,941.00 per Item payable in United States dollars on the Closing Date (as hereinafter defined) and \$11,941.00 per Item payable in Canadian dollars on said Closing Date (hereinafter referred to as the "Down Payment of the Vendor's Sale Price"), such Down Payment of the Vendor's Sale Price to be calculated in the manner provided for in this first paragraph of Section 3.1;

(b) \$11,941.00 per Item payable in United States dollars (U. S. \$1,134,395.00 for 95 Items) (hereinafter referred to as the "Deferred Balance of the Vendor's Sale Price").

The Down Payment of the Vendor's Sale Price shall be computed by reference to the "spot rate" for purchase of Canadian dollars in effect at The First National Bank of Chicago, Chicago, Illinois at the close of business on the business day next preceding the Closing Date (i.e. the amount of U. S. dollars it would take to purchase an equivalent amount of Canadian dollars at the spot rate in effect at The First National Bank of Chicago on such date).

In order to acquire possession of and use the Equipment the Railroad acknowledges and agrees that there must be paid to the Government of Canada duty (the "Canadian Duty") in the amount of \$2,183.04 per Item of Equipment payable in United States dollars (U. S. \$207,388.80 for 95 Items) and that the Vendor's Sale Price together with the Canadian Duty shall constitute for all purposes hereunder and be hereinafter collectively called the "Purchase Price".

On the Closing Date hereinafter referred to the Investor will pursuant to Section 14.1 hereof and the Finance Agreement advance to the Vendor the portion of the Purchase Price constituting the Deferred Balance of the Vendor's Sale Price and will advance to the Railroad the portion of the Purchase Price constituting Canadian

Duty (for immediate application to the satisfaction in full of all liability to the Government of Canada in respect of the Canadian Duty) and in consideration thereof the Vendor will assign to the Investor all of its right, title and interest in and to this Conditional Sale Agreement and Assignment and its right, security title and interest in and to the Equipment.

3.2. For the purpose of making settlement for the Equipment, the Equipment shall be treated as one group of Items of Equipment (the "Group").

3.3. The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay to the Vendor at such bank or trust company in the United States of America as the Vendor or its assignee shall designate for payment to it, the Purchase Price of the Items of Equipment as follows:

(a) On the Closing Date an amount equal to the Down Payment of the Vendor's Sale Price for all Items of Equipment in the Group; and

(b) An amount equal to the sum of the Deferred Balance of the Vendor's Sale Price and the Canadian Duty for all Items of Equipment in the Group (herein sometimes collectively called the "Conditional Sale Indebtedness") payable in twenty equal consecutive quarterly installments, each in the amount of \$67,089.19 (except the last installment shall be the unpaid balance) on the fifteenth day of January, April, July and October, commencing on October 15, 1976, and ending on July 15, 1981, the date of the final maturity of the Conditional Sale Indebtedness, plus interest from the Closing Date until maturity of the Conditional Sale Indebtedness (payable quarterly on the principal installment payment dates set forth above) on the balance of principal from time to time outstanding and unpaid at a rate per annum determined by adding .35 of 1% to the prime commercial rate of the Investor from time to time in effect (with any change in the interest rate on the Conditional Sale Indebtedness resulting from a change in such prime commercial rate to be and become effective as of and on the day following the relevant change in such prime commercial rate).

3.4. The term "Closing Date" with respect to the Group shall mean such date during the month of July, 1976 which is not more than seven business days following presentation by the Vendor to the Railroad of the invoice, as shall be fixed by the Railroad by written or telegraphic notice delivered to the Vendor and any assignee thereof at least five business days prior to the Closing Date designated therein.

3.5. The term "Business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of Illinois are authorized or required to close.

3.6. Interest under this Conditional Sale Agreement and Assignment shall be determined on the basis of a year of 365 or 366 days, as the case may be.

3.7. The Railroad will pay interest upon all unpaid balances of Conditional Sale Indebtedness after the same shall have become due and payable pursuant to the terms hereof, at a rate per annum determined by adding one percent to the interest rate applicable to the Conditional Sale Indebtedness (determined as provided in Section 3.3) in effect at the maturity of each such unpaid balance, whether by acceleration or otherwise, for the period after such maturity until paid.

3.8. All payments provided for in this Conditional Sale Agreement and Assignment shall be made by the Railroad in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. All payments of installments of Conditional Sale Indebtedness and/or interest thereon and all payments due pursuant to Section 6 hereof shall be made by crediting before 11:00 A.M., Chicago time, by Federal funds bank wire transfer, such account of the Vendor or its assignee in any bank in the United States as may be designated in writing by such party.

3.9. Except as provided in Section 6 hereof, the Railroad shall not have the privilege of prepaying any installment of the indebtedness prior to the date it becomes due hereunder.

SECTION 4. TITLE TO THE EQUIPMENT.

4.1. The Vendor shall and hereby does retain the full security title to and property in the Equipment until the Railroad shall have made all of the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as herein provided. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all terms and conditions of this Conditional Sale Agreement and Assignment and included in the term "Equipment" as used in this Conditional Sale Agreement and Assignment.

4.2. When and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided and all the Railroad's other obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Railroad so to do, will execute a bill or bills of sale of the Equipment releasing its security title thereto and property

therein to the Railroad or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address specified in Section 20 hereof, and will execute in the same manner and deliver at the same place, for filing, registering, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Railroad to the Equipment, and will pay to the Railroad any money paid to the Vendor, pursuant to Section 6 hereof and not therefore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or to file any instrument of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale and to file such instrument within a reasonable time after written demand by the Railroad.

SECTION 5. MARKING OF EQUIPMENT.

5.1. Immediately upon receipt of an Item of Equipment by the Railroad, the Railroad shall substitute the Grand Trunk Western Railroad Company road number for the corresponding Canadian National Railway Company road number as provided in Schedule A hereto and shall mark by a plate or stencil printed in contrasting color upon both sides of each Item of Equipment in letters not less than one inch in height, the words "This Unit subject to Conditional Sale Agreement recorded with the I.C.C." (the "Lien Notice"). Thereafter the Railroad will cause each Item of Equipment to be kept numbered with its Grand Trunk Western Railroad road number as set forth in Schedule A hereto and will keep and maintain the Lien Notice, with appropriate changes of such Lien Notice and additions thereto as from time to time may be required by law in order to protect the security title of the Vendor to such Item of Equipment, its rights under this Conditional Sale Agreement and Assignment and the rights of any assignee under Section 14 hereof. The Railroad will not place any such Item of Equipment in operation or exercise any control or dominion over the same (other than to receive each Item at the place of delivery set forth in Schedule A hereto and to promptly transport the same to the facilities of the Railroad to be used in connection with the substitution of road numbers as provided herein) until the Grand Trunk Western Railroad road numbers and the required legend shall have been marked on each Item of Equipment and will replace promptly any such numbers, names and word or words which may be removed, defaced or

destroyed. The Railroad will not change the Grand Trunk Western Railroad road number of any Item of Equipment except with the consent of the Vendor and any assignee pursuant to Section 14 hereof and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Vendor by the Railroad and filed, recorded or deposited in all public offices where this Conditional Sale Agreement and Assignment shall have been filed, recorded or deposited.

5.2. Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the same or similar types of names or initials or other insignia customarily used by the Railroad or its affiliates for convenience of identification.

SECTION 6. CASUALTY OCCURRENCES.

6.1. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or irreparably damaged (including any Item lost, stolen, destroyed or irreparably damaged prior to the Closing Date), or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise (each such occurrence, except for any requisition which by its terms is indefinite or does not exceed the original term of this Agreement, being hereinafter called a "Casualty Occurrence"), prior to the payment of the indebtedness in respect of the Purchase Price of such Item, together with interest thereon and all other payments required hereby, the Railroad shall, within ten days after it shall have been determined that such Item of Equipment has suffered a Casualty Occurrence, fully inform the Vendor in regard thereto. The Railroad shall, on the quarterly payment date next succeeding the date of such determination, pay to the Vendor a sum equal to the aggregate Casualty Payment (as defined in Section 6.3 hereof) of such Item of Equipment as of the date of such payment and shall file with the Vendor a certificate of a Vice President or the Chief Financial Officer of the Railroad setting forth the Casualty Payment of the Item of Equipment suffering a Casualty Occurrence.

6.2. Any money paid to the Vendor pursuant to Section 6.1 hereof shall, so long as no Event of Default shall have occurred and be continuing, be applied, in whole or in part, as the Railroad shall direct in a written instrument filed with the Vendor, to prepay indebtedness in respect of the Purchase Price of the Equipment hereunder or to or toward the cost of an Item or Items of Equipment of standard gauge railroad equipment which shall be of the same

character as the Equipment described in Schedule A hereto to replace such Item of Equipment having suffered a Casualty Occurrence and which Item or Items of Equipment shall be of a quality and have a value and utility at least equal to such Item of Equipment having suffered a Casualty Occurrence, as the Railroad shall direct in such written instrument. In case any such money shall be applied to prepay indebtedness, it shall be so applied, on the first installment date for the payment of the Purchase Price of the Equipment next following receipt by the Vendor of such written direction, to prepay installments of the Purchase Price of the Equipment thereafter falling due in the inverse order of their maturities, but without premium, and whether or not such amount shall be sufficient to prepay one or more entire installments (or portions thereof) of the Purchase Price. In case of replacement the amount to be paid by the Vendor in respect of any replacing Item shall not exceed the lesser of the cost of such Item or the amount of the Casualty Payment (as hereinafter defined), and the Railroad shall pay any additional cost of such Item.

6.3. The payment to be made to the Vendor in respect of each Item of Equipment having suffered a Casualty Occurrence (the "Casualty Payment") shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Payment shall be determined, plus interest accrued thereon but unpaid as of such date.

6.4. So long as no Event of Default shall have occurred and be continuing, any money paid to the Vendor pursuant to this Section 6 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in (i) such direct obligations of the United States of America or obligations for which the faith of the United States is pledged to provide for the payment of principal and interest or (ii) commercial paper rated "Prime-1" by NCO/Moody's Commercial Paper Division of Moody's Investors Service, Inc. or "A-1" by Standard & Poor's Corporation, or (iii) certificates of deposit issued by a bank or trust company organized under the laws of the United States or any state thereof having capital, surplus and undivided profits aggregating at least \$50,000,000, in each case maturing in not more than one year from the date of such investment (all such investments being hereinafter called "Investments"), as may be specified in such written direction. Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest or earned discount received by the Vendor on any Investments shall be held by the Vendor and applied as herein provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Vendor thereon, up to the cost (including accrued interest or earned discount) thereof, shall be held by the Vendor for application pursuant to this Section 6, and any excess shall be paid to the Railroad. If such proceeds

(plus such interest or earned discount) shall be less than such cost, the Railroad will promptly pay to the Vendor an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Vendor in connection with the purchase and sale of Investments.

6.5. The Railroad will cause any replacing Item to be plated or marked as provided in Section 5.1 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all of the terms and conditions of this Conditional Sale Agreement and Assignment as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement. Title to all such replacements shall be free and clear of all liens and encumbrances and shall be taken initially and shall remain in the name of the Vendor subject to the provisions hereof, and the Railroad shall promptly execute, acknowledge, deliver, file and record all such documents (including the filing with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and the deposit with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and publication of such deposit in The Canada Gazette in accordance with said Section 86 of an appropriate supplemental agreement describing such replacements) and do any and all such acts as may be necessary to cause such replacements to come under and be subject to this Conditional Sale Agreement and Assignment and to protect the title of the Vendor to such replacements. All such replacements shall be warranted in like manner as the Items replaced, and the Vendor of the replacements shall, if other than the Vendor, duly consent to the subjection thereof to this Conditional Sale Agreement and Assignment and agree to be bound by all the terms and provisions contained herein in respect of such replacements in like manner as the Vendor is in respect of the original Equipment delivered hereunder.

6.6. Whenever the Railroad shall file with the Vendor, pursuant to the foregoing provisions of this Section 6, a written direction to apply money to or toward the cost of a replacing Item of standard gauge railroad equipment, the Railroad shall file therewith in such number of counterparts as may reasonably be requested:

(a) a certificate of a Vice-President or the Chief Financial Officer of the Railroad certifying that such replacing Item is standard gauge railroad equipment (other than work or passenger equipment) and has been plated or marked as required by the provisions of this Section 6 and certifying the cost

of such replacing unit and that the cost thereof does not exceed the fair value of such Item and that such replacing Item is of a quality and has a value and utility at least equal to the Item replaced; and

(b) an opinion of counsel for the Railroad that title to such replacing Item is vested in the Vendor free and clear of all liens and encumbrances, and that such Item has come under and become subject to this Conditional Sale Agreement and Assignment.

6.7. In the event that any moneys paid to, or held by, the Vendor pursuant to this Section 6 are applied to the prepayment of indebtedness in respect of the Purchase Price, the Railroad will pay to the Vendor on the date of such application interest then accrued and unpaid on the indebtedness so prepaid.

If an Event of Default shall have occurred and be continuing, then so long as such event of default shall continue all money then held by the Vendor pursuant to this Section 6 shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Section 16 hereof.

6.8. In order to facilitate the sale, or other disposition of any Equipment suffering a Casualty Occurrence, the Vendor shall upon request of the Railroad, after deposit by the Railroad of a sum equal to the Casualty Payment of such Equipment, execute and deliver to the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this Conditional Sale Agreement and Assignment, in such form as may be reasonably requested by the Railroad.

6.9. In the event that prior to the expiration of the term of this Conditional Sale Agreement and Assignment, the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period ending on or before said date, the Railroad's duty to pay the indebtedness in respect of the Purchase Price thereof shall continue for the duration of such requisitioning or taking. The Railroad shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

6.10. The Railroad will, at its own expense, so long as any portion of the indebtedness in respect of the Purchase Price of the Equipment or any interest thereon shall remain unpaid, cause to

be carried and maintained property insurance in respect of the Items of Equipment at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by the Railroad in respect of similar equipment owned by it and the benefits thereof shall be payable to the Vendor and the Railroad as their interests may appear. Any policies of insurance carried in accordance with this Section shall (i) require 30 days' prior notice to the Vendor of cancellation or material change in coverage, and (ii) name the Vendor as an additional insured as its interests may appear, and in the event that such policies contain breach of warranty provisions, such policies shall provide that in respect of the interests of the Vendor therein, the insurance shall not be invalidated by any action or inaction of the Railroad or any other person and shall insure the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Railroad or by any other person. Any insurance proceeds (less expenses of collection) or condemnation payments received by the Vendor in respect of Items of Equipment suffering a Casualty Occurrence shall be deducted from the Casualty Payment payable by the Railroad in respect of the Casualty Occurrence pursuant to this Section 6. If the Vendor shall receive any insurance proceeds or condemnation payments in respect of any Item of Equipment after the Railroad shall have paid a Casualty Payment with respect to such Item of Equipment pursuant to this Section 6 without deduction for such insurance proceeds or condemnation payments, the Vendor shall pay all such proceeds or condemnation payments to the Railroad. All insurance proceeds received by the Vendor in respect of any Item of Equipment not suffering a Casualty Occurrence shall be paid to the Railroad upon proof satisfactory to the Vendor that any damage to such Item has been fully repaired.

SECTION 7. TAXES.

All payments to be made by the Railroad hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor in respect of the amount of any local, state or Federal taxes, license and registration fees, assessments, charges, fines, penalties, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment, and other taxes, fees and governmental charges similar or dissimilar to the foregoing (other than net income, excess profits and similar taxes) hereafter levied or imposed upon, or measured by, this Conditional Sale Agreement and Assignment or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which expenses, taxes and licenses the Railroad assumes and agrees to pay on demand in addition to the indebtedness in respect of the Purchase Price of the Equipment and with respect to which the Railroad agrees to file all necessary tax returns, reports and certificates of which it is aware or reasonably should be aware. The Railroad will also pay promptly

all taxes and assessments which may be imposed upon the Equipment or for the use or operation thereof by the Railroad or upon the earnings arising therefrom or upon the Vendor solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Vendor or result in a lien upon any Item of Equipment; provided, however, that the Railroad shall be under no obligation to pay any taxes, assessments, licenses, charges, fines or penalties of any kind, including those charged or levied against the Vendor directly, so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder. If any such expenses, taxes, assessments, licenses, charges, fines or penalties shall have been charged or levied against the Vendor directly and paid by the Vendor, the Railroad shall reimburse the Vendor on presentation of invoice therefor; provided, however, that the Railroad shall not be obligated to reimburse the Vendor for any expenses, taxes, assessments, licenses, charges, fines or penalties so paid unless the Vendor shall have been legally liable with respect thereto as evidenced by an opinion of counsel for the Vendor or unless the Railroad shall have approved the payment thereof.

It is understood and agreed that the portion of the Purchase Price of the Equipment constituting Canadian Duty is to be advanced by the Investor to the Railroad in accordance with the terms and provisions of Section 3.1 of this Conditional Sale Agreement and Assignment.

SECTION 8. REPORTS AND INSPECTIONS.

8.1. On or before April 1 in each year, commencing with the year 1977, the Railroad will furnish to the Vendor an accurate statement, as of the preceding December 31, (a) showing the amount, description and numbers of the Items of Equipment then subject to this Conditional Sale Agreement and Assignment, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Conditional Sale Agreement and Assignment, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Vendor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 5.1 hereof shall have been preserved or replaced.

8.2. The Vendor shall have the right, at its sole cost and expense by its authorized representative, to inspect the Equipment and the Railroad's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Vendor the existence and proper maintenance thereof during the continuance of this Conditional Sale Agreement and Assignment.

SECTION 9. POSSESSION, USE AND MAINTENANCE.

9.1. The Railroad, so long as it shall not be in default under this Conditional Sale Agreement and Assignment, shall be entitled, from and after delivery of the Equipment by the Vendor to the Railroad, to the possession of the Equipment and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with another and whether under lease or otherwise, or upon the lines of railroads owned or operated by any company controlled by or controlling the Railroad, or over which it has trackage rights, and the Equipment may also be used upon connecting and other railroads in the usual interchange of traffic, from and after delivery of the Equipment by the Vendor to the Railroad, provided however that the Railroad shall not assign or permit the assignment of any Item of Equipment to service involving the regular operation and maintenance thereof outside the continental United States or Canada.

Except as otherwise provided in this Section 9.1, the Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Conditional Sale Agreement and Assignment or transfer the right to possession of any Item of Equipment without first obtaining the written consent of the Vendor which consent shall not be unreasonably withheld. An assignment or transfer to a railroad company or other purchaser which shall acquire all or substantially all the lines of railroad of the Railroad, and which by execution of an appropriate instrument satisfactory to the Vendor, shall assume and agree to perform each and all of the obligations and covenants of the Railroad hereunder, shall not be deemed a breach of this covenant.

9.2. The Railroad shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Railroad shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange. The Railroad shall not modify any Item of Equipment without the written authority and approval of the Vendor which shall not be unreasonably withheld, provided that no such approval shall be required if and to the extent such modification is required by Section 11 hereof. Any parts installed or replacements made by the Railroad upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Vendor, without cost or expense to the Vendor.

SECTION 10. PROHIBITION AGAINST LIENS.

10.1. The Railroad will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien or a charge upon any Item of Equipment and any liens, encumbrances or charges which might be levied against or imposed upon any Item of Equipment as a result of the failure of the Railroad to perform or observe any of its covenants or agreements under this Conditional Sale Agreement and Assignment, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested by the Railroad in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder.

10.2. This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's mechanics', workmen's, repairmen's or other liens arising in the ordinary course of business and, in each case, not delinquent (such liens being herein called "permitted liens").

SECTION 11. RULES, LAWS AND REGULATIONS.

During the term of this Conditional Sale Agreement and Assignment the Railroad will comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation and the Canadian Transport Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the operation or use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Railroad will conform therewith at its expense, and will maintain the same in proper condition for operation under such laws and rules; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder.

SECTION 12. INDEMNITIES.

12.1. The Railroad agrees to indemnify, protect and hold harmless the Vendor against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the

cause thereof, and expenses in connection therewith, including without limitation claims for strict liability in tort and counsel fees, arising out of retention by the Vendor of security title to the Equipment, or out of the use and operation thereof during the period when security title thereto remains in the Vendor. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of the Equipment and the conveyance of the Equipment, as provided in Section 4.2 hereof, or the termination of this Conditional Sale Agreement and Assignment in any manner whatsoever.

12.2. The Railroad, after the Closing Date, will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any Item or of all the Equipment.

12.3. THE VENDOR SELLS THIS EQUIPMENT, AS-IS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESSED OR IMPLIED, BY THE VENDOR, THE VENDOR EXPRESSLY DISCLAIMING ANY WARRANTY OR REPRESENTATION EITHER EXPRESSED OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT INCLUDING BUT NOT LIMITED TO THEIR VALUE, CONDITION, DESIGN OR OPERATION, (B) THE RECEIPT BY THE COMPANY OF THE EQUIPMENT, (C) THE RAILROAD'S RIGHT TO THE QUIET ENJOYMENT THEREOF, (D) THE DESIGN OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, OR (E) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE VENDOR AND THE RAILROAD, ARE TO BE BORNE BY THE RAILROAD.

SECTION 13. PATENT INDEMNITIES.

The Railroad agrees to indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of any Item of Equipment, of any design, article or material which infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right.

SECTION 14. PURCHASE OF VENDOR'S RIGHT, SECURITY TITLE AND INTEREST BY INVESTOR.

14.1. Concurrently with the execution and delivery of this Conditional Sale Agreement and Assignment, the Investor is pursuant to the Finance Agreement acquiring from the Vendor its right, security title and interest under this Conditional Sale Agreement and Assignment. Accordingly, the Vendor hereby assigns, transfers and sets over onto the Investor, its successors and assigns:

(a) All the right, security title and interest of the Vendor in and to each Item of Equipment upon payment by the Investor of the Deferred Balance of the Vendor's Sale Price and the Canadian Duty payable in respect of the Equipment as provided in Section 2 of the Finance Agreement and payment by the Railroad of the amount required to be paid under Section 3.3(a) of this Conditional Sale Agreement and Assignment;

(b) All the right, title and interest of the Vendor in and to this Conditional Sale Agreement and Assignment (except the right to receive the payments specified in Sections 3.3(a) and 14.5 hereof), and in and to any and all amounts which may be or become due or owing to the Vendor under this Conditional Sale Agreement and Assignment on account of the indebtedness in respect of the Purchase Price of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under this Conditional Sale Agreement and Assignment, other than those hereinabove excluded; and

(c) Except as limited above in subparagraph (b) hereof, all of the Vendor's rights, powers, privileges and remedies under this Conditional Sale Agreement and Assignment;

without any recourse, however, against the Vendor for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of this Conditional Sale Agreement and Assignment; provided, however, that this assignment shall not subject the Investor to, or transfer, or pass, or in any way affect or modify the obligations of the Vendor to sell the various Items of Equipment in accordance with this Conditional Sale Agreement and Assignment or relieve the Railroad from its obligations to the Vendor under Sections 2 and 14.5 of this Conditional Sale Agreement and Assignment, it being understood and agreed that notwithstanding this assignment or any subsequent assignment pursuant to the provisions of Section 14.4 of this Conditional Sale Agreement and Assignment, all obligations of the Vendor, if any, to the Railroad shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Vendor. In furtherance of the foregoing assignment and transfer, the Vendor hereby authorizes and empowers the Investor in the Investor's name, or in the name of the Investor or in the name of the Investor's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Vendor to ask, demand, sue for, collect, receive and enforce any and all sums to which the Investor is or may become entitled under this Conditional Sale Agreement and Assignment and compliance by the Railroad with the terms and agreements on its part to be performed under this Conditional Sale Agreement and Assignment, but at the expense and liability and for the sole benefit of the Investor.

14.2. The Vendor covenants and agrees that it will warrant to the Investor and the Railroad that on the Closing Date, under this Conditional Sale Agreement and Assignment it had legal title to each Item of Equipment and good and lawful right to sell such Item and the title to such Item was free of all claims, liens and encumbrances of any nature except only the right of the Vendor to receive payment of its Purchase Price therefor and the rights of the Railroad under this Conditional Sale Agreement and Assignment; and the Vendor further covenants and agrees that it will defend the title to such Item against the demands of all persons whomsoever based on claims originating prior to the Closing Date; all subject, however, to the provisions of this Conditional Sale Agreement and Assignment and the rights of the Railroad hereunder.

The Vendor covenants and agrees with the Investor that in any suit, proceeding or action brought by the Investor under this Conditional Sale Agreement and Assignment for any installment of, or interest on, indebtedness in respect of the Purchase Price of the Equipment or to enforce any provision of this Conditional Sale Agreement and Assignment, the Vendor will indemnify, protect and hold harmless the Investor from and against all expense, loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by the Vendor of any obligation with respect to the Equipment or the sale thereof by the Vendor, or by reason of any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Vendor. The Vendor's obligation so to indemnify, protect and hold harmless the Investor is conditional upon (a) the Investor's timely motion or other appropriate action to strike any defense, set-off, counterclaim or recoupment asserted by the Railroad in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, set-off, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Investor's prompt notification to the Vendor of the asserted defense, set-off, counterclaim or recoupment and the Investor's giving the Vendor the right, at the Vendor's expense, to compromise, settle or defend against such defense, set-off, counterclaim or recoupment. Any and all such obligations shall be and remain enforceable by the Railroad against and only against the Vendor and shall not be enforceable against the Investor or any party or parties in whom security title to the Equipment or any unit item thereof or any of the rights of the Vendor under this Conditional Sale Agreement and Assignment shall vest by reason of this assignment or of successive assignments. The Investor will give notice to the Vendor of any suit, proceeding or action by or against the Investor herein described.

The Vendor agrees that any amount payable to it by the Railroad, whether pursuant to this Conditional Sale Agreement and Assignment or otherwise, not hereby assigned to the Investor, shall not be secured by any lien or charge on any Item of Equipment.

14.3. The Railroad hereby acknowledges that concurrently with the execution and delivery of this Conditional Sale Agreement and Assignment and the delivery to, and acceptance by, the Railroad of the Equipment, the Vendor is hereby assigning all of its right, security title and interest in and to each Item of Equipment and this Conditional Sale Agreement and Assignment all as more fully provided in Section 14.1 hereof. The Railroad expressly acknowledges and agrees with the Investor and its successors and assigns, for the purpose of inducing the execution and delivery of this Conditional Sale Agreement and Assignment and the Finance Agreement by the Investor and its advance to the Vendor in consideration of the Vendor's assignment hereof of an amount equal to the sum of the Deferred Balance of the Vendor's Sale Price and the Canadian Duty payable in respect of the Equipment, that the rights of the Investor and its successors and assigns to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or any part thereof as so assigned, together with interest thereon, as well as all other rights hereunder so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever, whether by reason of the nonreceipt by the Railroad of any Item or Items of Equipment or any breach of any obligation of the Vendor with respect to the Equipment or the delivery or warranty thereof or with respect to any indemnity herein contained or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof whether before or after the Closing Date, or by reason of any other indebtedness or liability, howsoever and when arising, at any time owing to the Railroad by the Vendor or to any other person, firm or corporation or to any governmental authority, or for any cause whatsoever, it being the intent hereof that the Railroad shall be unconditionally and absolutely obligated to pay the Investor the entire unpaid indebtedness in respect of the Purchase Price of the Equipment as so assigned, together with interest thereon, all in the manner and upon the dates set forth in Section 3.3(a) hereof and as otherwise provided thereon.

14.4. In the event of any successive assignment by the Investor of security title to the Equipment and of the Investor's rights hereunder with respect thereto, the Railroad will, whenever reasonably requested by such assignee, change the names and word or words to be marked on each side of each Item of Equipment so as to indicate the security title of such assignee to the Equipment with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the Investor (or to any successor assignee) shall be borne by the Railroad.

14.5. If the Investor shall not make payment on the Closing Date with respect to the Group of the Purchase Price of such Items of Equipment included in the Group as provided in the Finance Agreement, the Vendor will promptly notify the Railroad of such event, such Items of Equipment included in the Group shall be excluded thereupon and the Railroad shall not later than 60 days after the Closing Date pay or cause to be paid the Purchase Price of all such Items of Equipment, or the portion thereof unpaid by the Investor, as provided in Section 3.3(b) hereof (together with interest thereon at the rate provided for in Section 3.7 hereof in the case of the Vendor's Sale Price) such payment to be in cash or if the Vendor and the Railroad shall mutually agree, by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad shall determine and as may be reasonably satisfactory to the Vendor.

SECTION 15. DEFAULTS.

15.1. In the event that any one or more of the following events of default ("Events of Default") shall occur and be continuing, to-wit:

(a) The Railroad shall fail to pay in full any sum payable by the Railroad when payment thereof shall be due under Section 3 or 6 hereof and such default shall continue for five days; or

(b) The Railroad shall fail or refuse to comply with any covenant, agreement, term or provision of this Conditional Sale Agreement and Assignment on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance for more than 30 days after written notice from the Vendor specifying the default and demanding the same to be remedied; or

(c) Any representation or warranty made by the Railroad herein or in any statement or certificate furnished to the Vendor or the Investor pursuant to or in connection with this Conditional Sale Agreement and Assignment or the Finance Agreement proves untrue in any material respect as of the date of issuance or making thereof; or

(d) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Railroad and (unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of the Railroad under this Conditional Sale Agreement and Assignment

shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees within 30 days after such appointment or 60 days after such petition shall have been filed, whichever shall be earlier, or

(e) Any other proceedings shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder) and (unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of the Railroad under this Conditional Sale Agreement and Assignment shall not have been duly assumed in writing pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Railroad or for the property of the Railroad in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(f) The Railroad shall make or suffer any unauthorized assignment or transfer of this Conditional Sale Agreement and Assignment or any interest herein or any unauthorized transfer of the right to possession of any Item of the Equipment;

then at any time after the occurrence and during the continuance of such an Event of Default the Vendor may, upon written notice to the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, declare the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness shall bear interest from the date of such declaration at a rate of interest determined as provided in Section 3.7 hereof, and the Vendor shall thereupon

be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated.

15.2. The Vendor may waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Railroad in writing to that effect. Upon any such waiver the respective rights of the parties shall be as they would have been if no such default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Conditional Sale Agreement and Assignment and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

SECTION 16. REMEDIES.

16.1. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any Item thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 16 expressly provided, and may remove the same from possession and use of the Railroad and for such purpose may enter upon the premises of the Railroad or where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad, with or without process of law.

16.2. In case the Vendor shall rightfully demand possession of the Equipment in pursuance of this Conditional Sale Agreement and Assignment and shall reasonably designate a point or points upon the lines of the Railroad for the delivery of the Equipment to the Vendor, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be reasonably designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor; and, at the option of the Vendor, the Vendor may keep the Equipment on any of the lines of railroad or

premises of the Railroad, reasonably selected by the Vendor for a period not exceeding 180 days at the cost, expense and risk of the Railroad. The agreement to deliver the Equipment as hereinbefore provided is of the essence of this Conditional Sale Agreement and Assignment between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner.

16.3. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time thereafter during the continuance of such default and after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Section 15.2 hereof), the Vendor (after retaking possession of the Equipment as hereinbefore in this Section 16 provided) may at its election retain the Equipment as its own and make such disposition thereof as the Vendor shall deem fit (including, if the Vendor so elects, the leasing of the Equipment on such terms as it shall deem fit), and in such event all the Railroad's rights in the Equipment will thereupon terminate and, to the extent not prohibited by any mandatory requirements of law, all payments made by the Railroad may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; or the Vendor, with or without the retaking of possession thereof may, at its election, sell the Equipment, or any Item thereof, free from any and all claims of the Railroad, or of any other party claiming by, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; and the proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Vendor in taking possession of, removing, storing and selling the Equipment, shall be credited to the amount due to the Vendor under the provisions of this Conditional Sale Agreement and Assignment; provided, however, that if the Railroad, within 30 days of receipt of notice of the Vendor's election to retain the Equipment for its own use, as hereinafter provided, shall pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of all the Equipment, together with interest thereon accrued and unpaid and all other payments due by the Railroad under this Conditional Sale Agreement and Assignment, then in such event absolute right to the possession of, title to and property in such Equipment shall pass to and vest in the Railroad. Written notice of the Vendor's election to retain

the Equipment for its own use or sell the same as provided above shall be given to the Railroad by telegram or registered mail addressed to the Railroad as provided in Section 20 hereof, at any time during a period of 30 days after the entire indebtedness in respect of Purchase Price shall have been declared immediately due and payable as hereinbefore provided.

16.4. Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety, or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, provided that the Railroad shall be given written notice of such sale not less than 30 days prior thereto, by mail addressed as provided herein. If such sale shall be a private sale, it shall be subject to the rights of the Railroad to purchase or provide a purchaser, within 30 days after notice of the proposed sale price, at the same price offered in writing by the intending purchaser or a better price. In the event that the Railroad does not exercise said right to purchase or provide a purchaser for the Equipment, the Vendor may bid for and become the purchaser of the Equipment, or any Item thereof, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in this Section), and in payment of the Purchase Price therefor the Vendor shall be entitled to have credited on account thereof all sums due to the Vendor from the Railroad hereunder.

16.5. Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

16.6. All sums of money realized by the Vendor under the remedies herein provided shall be applied, first to the payment of the expenses and liabilities of the Vendor herein undertaken to be paid, second to the payment of the indebtedness in respect of the Purchase Price of the Equipment and third to the payment of interest on the indebtedness in respect of the Purchase Price of the Equipment accrued and unpaid. If, after applying as aforesaid all sums of

money realized by the Vendor, there shall remain any amount due to it under the provisions of this Conditional Sale Agreement and Assignment, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Railroad.

16.7. The Railroad will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Conditional Sale Agreement and Assignment. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including attorneys' fees and the amount thereof shall be included in such judgment.

16.8. The foregoing provisions of this Section 16 are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

SECTION 17. APPLICABLE STATE LAWS.

17.1. Any provision of this Conditional Sale Agreement and Assignment prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Conditional Sale Agreement and Assignment into any instrument other than an agreement of conditional sale, shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, to the end that this Conditional Sale Agreement and Assignment shall be deemed to be a conditional sale agreement and enforced as such.

17.2. Except as otherwise provided in this Conditional Sale Agreement and Assignment, the Railroad, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any Item thereof, and any other requirements as to the time, place and terms of sale thereof, and other requirements with respect to the enforcement of the Vendor's rights hereunder and any and all rights of redemption.

SECTION 18. EXTENSION NOT A WAIVER.

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Vendor shall impair or affect the Vendor's right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter

or affect the Vendor's rights or the obligations of the Railroad hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

SECTION 19. RECORDING.

The Railroad will cause this Conditional Sale Agreement and Assignment, any assignment hereof and any supplements hereto and thereto to be filed, recorded or deposited and re-filed, re-recorded or re-deposited, if necessary, with the Interstate Commerce Commission and the Registrar General of Canada (with notice of such deposit to be published in The Canada Gazette in accordance with Section 86 of the Railway Act of Canada), and otherwise as may be required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor of its security title to the Equipment and its rights under this Conditional Sale Agreement and Assignment or for the purpose of carrying out the intention of this Conditional Sale Agreement and Assignment; and the Railroad will promptly furnish to the Vendor certificates or other evidences of such filing, recording or depositing, and an opinion or opinions of counsel for the Railroad with respect thereto, satisfactory to the Vendor.

SECTION 20. NOTICE.

Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at the following specified addresses:

(a) to the Railroad: Grand Trunk Western Railroad Company, 131 West Lafayette Boulevard, Detroit, Michigan 48226, Attention: Secretary,

(b) to the Vendor: North American Car (Canada) Limited, 222 South Riverside Plaza, Chicago Illinois 60606, Attention: Vice President-Finance,

(c) to the Investor: The Northern Trust Company, 50 South LaSalle Street, Chicago, Illinois 60690, Attention: Loan Operating Division-R. May,

(d) to any assignee of the Investor, or of the Railroad, at such address as may have been furnished in writing to the Railroad or, as the case may be, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Conditional Sale Agreement and Assignment.

SECTION 21. HEADINGS.

All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Conditional Sale Agreement and Assignment.

SECTION 22. EFFECT AND MODIFICATION OF AGREEMENTS.

This Conditional Sale Agreement and Assignment and the Schedule relating hereto, together with the Finance Agreement, exclusively and completely state the rights and agreements of the Vendor and the Railroad with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Conditional Sale Agreement and Assignment or the Finance Agreement and no waiver of any of their respective provisions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Railroad.

SECTION 23. LAW GOVERNING.

The terms of this Conditional Sale Agreement and Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Conditional Sale Agreement and Assignment or any assignment hereof shall be filed, recorded or deposited.

SECTION 24. DEFINITIONS.

The term "Vendor", whenever used in this Conditional Sale Agreement and Assignment, means, before the assignment to the Investor of its rights hereunder, North American Car (Canada) Limited, and any successor or successors for the time being to the properties and business thereof, and, after such assignment, the Investor and any assignee or assignees thereof.

SECTION 25. PAYMENT OF EXPENSES.

The Railroad will pay all reasonable costs, charges and expenses, except the counsel fees of the Vendor, but including one-half the fees and expenses of counsel for the Investor but all of the same for Canadian counsel and including stamp and other taxes, if any, incident to the printing or other duplicating, execution, acknowledgment, delivery, filing or recording of this Conditional Sale Agreement and Assignment, of any instrument supplemental to or amendatory of this Conditional Sale Agreement and Assignment and of any certificate of the payment in full of the indebtedness in respect of Purchase Price due hereunder.

SECTION 26. CONSOLIDATION OR MERGER.

In case of any consolidation or merger to which the Railroad shall be a party, or in case of any sale of all or substantially all the assets of the Railroad, the corporation resulting from such consolidation or merger (if other than the Railroad) or the corporation which shall acquire such assets, shall expressly assume all obligations hereunder, not then performed, of the Railroad.

SECTION 27. EXECUTION.

This Conditional Sale Agreement and Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Conditional Sale Agreement and Assignment is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by their officers or representatives, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

NORTH AMERICAN CAR (CANADA) LIMITED

(Corporate Seal)

By *Wm. B. O'Brien* X
Its Vice President

Attest:

J. A. Mohr
Asst. Secretary

GRAND TRUNK WESTERN RAILROAD

(Corporate Seal)

By *W. A.*
Its Vice President

APPROVED AS TO FORM
W. A.
DATE: 7-14-76

Attest:

E. S. Sartore
Secretary

THE NORTHERN TRUST COMPANY

(Corporate Seal)

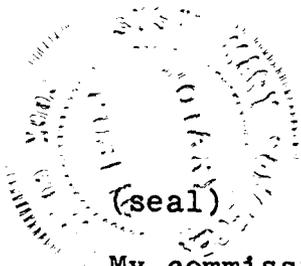
By *R. Mac Donald*
Its Second Vice President

Attest:

R. O. ...
Assistant Secretary

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 13th day of July, 1976, before me personally appeared Robert B. Oppenheimer, to me personally known, who, being by me duly sworn, says that he is a ^{Vice} President of NORTH AMERICAN CAR (CANADA) LIMITED, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

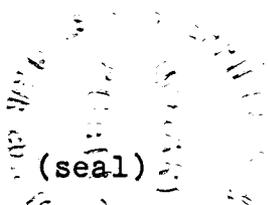


Susan Mary Schaefer
Notary Public

My commission expires: Sept. 12, 1977

STATE OF MICHIGAN)
) SS
COUNTY OF WAYNE)

On this 14th day of July, 1976, before me personally appeared PAUL E. Tatro, to me personally known, who being by me duly sworn, says that he is the Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



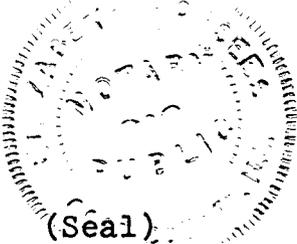
(seal)

Shirley S. Wright
Notary Public

My commission expires: 2/6/78

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 12th day of July, 1976, before me personally appeared R. J. Mac Donald, to me personally known, who being by me duly sworn, says that he is the Second Vice President of THE NORTHERN TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Elizabeth Monsees
Notary Public

My commission expires: 9/20/77

SCHEDULE A

To Conditional Sale Agreement and Assignment

DESCRIPTION OF EQUIPMENT

95 used 100-ton covered hopper cars bearing the following Canadian National Railway Company road numbers prior to renumbering, and the following Grand Trunk Western Railroad Company road numbers after renumbering, pursuant to Section 5.1 of the Conditional Sale Agreement and Assignment:

Old Numbers

New Numbers

Canadian National Railway
Company Road Nos.

Grand Trunk Western
Railroad Company Road Nos.

CN 373000
CN 373001
CN 373002
CN 373003
CN 373004
CN 373005
CN 373006
CN 373007
CN 373008
CN 373010
CN 373011
CN 373012
CN 373013
CN 373014
CN 373015
CN 373016
CN 373017
CN 373018
CN 373019
CN 373020
CN 373021
CN 373022
CN 373023
CN 373024
CN 373025
CN 373026
CN 373027
CN 373028
CN 373029
CN 373030

GTW 315230
GTW 315231
GTW 315232
GTW 315233
GTW 315234
GTW 315235
GTW 315236
GTW 315237
GTW 315238
GTW 315239
GTW 315240
GTW 315241
GTW 315242
GTW 315243
GTW 315244
GTW 315245
GTW 315246
GTW 315247
GTW 315248
GTW 315249
GTW 315250
GTW 315251
GTW 315252
GTW 315253
GTW 315254
GTW 315255
GTW 315256
GTW 315257
GTW 315258
GTW 315259

Old Numbers

New Numbers

Canadian National Railway
Company Road Nos.

Grand Trunk Western
Railroad Company Road Nos.

CN 373031	GTW 315260
CN 373033	GTW 315261
CN 373034	GTW 315262
CN 373035	GTW 315263
CN 373036	GTW 315264
CN 373037	GTW 315265
CN 373038	GTW 315266
CN 373039	GTW 315267
CN 373042	GTW 315268
CN 373043	GTW 315269
CN 373044	GTW 315270
CN 373045	GTW 315271
CN 373046	GTW 315272
CN 373047	GTW 315273
CN 373048	GTW 315274
CN 373049	GTW 315275
CN 373050	GTW 315276
CN 373051	GTW 315277
CN 373053	GTW 315278
CN 373054	GTW 315279
CN 373055	GTW 315280
CN 373056	GTW 315281
CN 373057	GTW 315282
CN 373058	GTW 315283
CN 373059	GTW 315284
CN 373060	GTW 315285
CN 373061	GTW 315286
CN 373062	GTW 315287
CN 373063	GTW 315288
CN 373064	GTW 315289
CN 373065	GTW 315290
CN 373066	GTW 315291
CN 373067	GTW 315292
CN 373068	GTW 315293
CN 373069	GTW 315294
CN 373070	GTW 315295
CN 373071	GTW 315296
CN 373072	GTW 315297
CN 373073	GTW 315298
CN 373074	GTW 315299
CN 373075	GTW 315300
CN 373076	GTW 315301
CN 373077	GTW 315302
CN 373078	GTW 315303
CN 373079	GTW 315304
CN 373080	GTW 315305

Old Numbers

New Numbers

Canadian National Railway
Company Road Nos.

Grand Trunk Western
Railroad Company Road Nos.

CN 373081
CN 373082
CN 373083
CN 373084
CN 373085
CN 373086
CN 373087
CN 373088
CN 373089
CN 373090
CN 373091
CN 373092
CN 373093
CN 373094
CN 373095
CN 373096
CN 373097
CN 373098
CN 373099

GTW 315306
GTW 315307
GTW 315308
GTW 315309
GTW 315310
GTW 315311
GTW 315312
GTW 315313
GTW 315314
GTW 315315
GTW 315316
GTW 315317
GTW 315318
GTW 315319
GTW 315320
GTW 315321
GTW 315322
GTW 315323
GTW 315324

DELIVER TO

Grand Trunk Western Railroad
Company

PLACE OF DELIVERY

Sarnia, Ontario, Canada